

IN THE MATTER OF
FIDELIS F. DOH, M.D.

Respondent

License Number: D51327

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BEFORE THE
MARYLAND STATE
BOARD OF PHYSICIANS
Case Numbers: 2219-0156A
2220-0260A

CONSENT ORDER

On June 9, 2020, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Fidelis F. Doh, M.D.** (the “Respondent”), **License Number D51327**, with violations of the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

Panel A charged the Respondent with violating the following provisions of the Act:

**§ 14-404. Denials, reprimands, probations, suspensions, and revocations
– Grounds.**

- (a) *In general.* – Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

....

- (3) Is guilty of: . . . (ii) unprofessional conduct in the practice of medicine;

....

- (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

....

- (28) Fails to comply with the provisions of § 12-102 of this article; [and]

....

- (43) Except for the licensure process described under Subtitle 3A of this title, violates any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine[.]

The pertinent provisions of Health Occ. § 12-102 provide:

(a) *Definitions.*

....

- (3) “Personally preparing and dispensing” means that the licensed dentist, physician, or podiatrist:

- (i) Is physically present on the premises when the prescription is filled; and
- (ii) Performs the final check of the prescription before it is provided to the patient.

(c) *Preparing of prescriptions by licensed dentist, veterinarian, physician, etc.; exception. —*

....

- (2) This section does not prohibit:

....

- (ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist’s, physician’s or podiatrist’s prescriptions when:

....

- (4) The dentist, physician, or podiatrist:

- A. Complies with the dispensing and labeling requirements of this title;
- B. Records the dispensing of prescription drugs or device on the patient’s chart;

....

- E. Except for starter doses or samples without charge, provides the patient with a written prescription, maintains prescription files in accordance with § 12-403(c)(13) of this title, and maintains a separate file for Schedule II prescriptions;

....

- J. Maintains biennial inventories and complies with any other federal and State record-keeping

requirements relating to controlled dangerous substances; [and]

....

- (m) *Violations; penalty.* – A dentist, physician, or podiatrist who fails to comply with this section governing the dispensing of prescription drugs or devices shall:
- (1) Have the dispensing permit revoked; and
 - (2) Be subject to disciplinary actions taken by the appropriate licensing board.

The pertinent provisions of the regulations adopted by the Board in the Code of Maryland Regulations (“COMAR”) provide:

10.13.01.04 Dispensing Requirements

....

- E. A licensee shall comply with the labeling requirements set forth in Health Occupations Article, § 12-505, Annotated Code of Maryland.

....

- H. A licensee shall record the dispensing of the prescription drug on the patient’s chart.

....

- J. A licensee shall, except for starter dosages or samples provided without charge, provide the patient with a written prescription.

....

- L. A licensee shall maintain biennial inventories of all stocks of controlled substances.

- M. A licensee shall dispense prescription drugs to a patient only when the patient determines that a pharmacy is not conveniently available to the patient.

- N. In each patient’s chart for each patient to whom prescription drugs are dispensed or in a format readily retrievable, a licensee shall maintain a single form which:

- (1) Indicates that a pharmacy is not conveniently available to the patient;
- (2) States that the determination that a pharmacy is not conveniently available was made solely by the patient; and
- (3) Is signed and dated by the patient before dispensing prescription drugs to the patient for the first time.

- O. A licensee shall display prominently a sign which informs the patient that prescription drugs can be purchased from the permit holder if the patient determines that a pharmacy is not conveniently available to the patient.

10.32.23.06 Requirements for Permit Holders.

- A. A permit holder shall comply with all federal and State statutes and regulations regarding prescription drugs, including all requirements for:
 - (1) Dispensing, including labeling;
 - (2) Storing and securing inventory;
 - (3) Allowing access only to authorized individuals;
 - (4) Managing inventory controls;
 - (5) Recordkeeping; and
 - (6) Submitting prescription monitoring data to the Maryland Prescription Drug Monitoring Program in accordance with Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland.
- B. A permit holder shall:
 - (1) Perform in person the final check of each drug dispensed;
 - (2) Sign or initial documentation in person that the final check was completed; [and]
 - (3) Be present on the premises and available for consultation at the time the drug is dispensed[.]

On September 9, 2020, Panel A was convened as a Disciplinary Committee on Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel A finds:

I. BACKGROUND

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent’s Maryland medical

license on October 18, 1996, under License Number D51327. His license is scheduled to expire on September 30, 2022.¹

2. The Respondent is not board-certified in any medical specialty but has previously self-designated his practice areas as internal medicine and medical oncology. He currently owns and operates a clinic in Laurel, Maryland, focusing on pain management and weight loss services.

3. The Respondent holds a permit to dispense prescription drugs in the State of Maryland. The Board first issued the Respondent's Maryland dispensing permit on or about June 25, 2012, under Permit Number 2917. The dispensing permit is active through November 20, 2022.

4. The Respondent holds an active medical license in the District of Columbia. In addition to his medical practice in Maryland, the Respondent provides services as the medical intake director for the D.C. Department of Corrections.

II. COMPLAINTS

5. From February 2019 to December 2019, the Board received six complaints about the Respondent's practice, including five complaints about his opioid prescribing practices and one complaint about his dispensing of prescription medications.

6. The first complaint, received by the Board on or about February 1, 2019, was from a pharmacy benefits manager (the "PBM").² The PBM alleged that the Respondent was "inappropriately prescribing medications containing oxycodone," among other things.

¹ Panel A summarily suspended the Respondent's medical license on May 26, 2020 and reaffirmed that summary suspension following a post-deprivation hearing on June 10, 2020.

² To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this document but are known to the Respondent.

The PBM provided the results of its investigation into the Respondent, which had found that his most common prescription was for oxycodone 30mg, which amounted to 53% of his total prescriptions. By comparison, the PBM pointed out that oxycodone 30mg ranked as the 375th most common prescription by other pain management specialists in Maryland. The PBM also noted that the Respondent rarely prescribed other pain medications such as hydrocodone, suggesting a “‘one-size-fits-all’ approach to practicing medicine.”

7. A second complaint, dated March 22, 2019, was from the Maryland Office of Controlled Substances Administration (“OCSA”). In its complaint, OCSA summarized the findings it made over the course of inspections at several pharmacies, noting that the Respondent’s prescriptions had multiple “red flags,” including “high strength/quantity, cocktails, in-state long distance patients, out of state patients, and patients younger than 40 years old.” As a result, OCSA labeled the Respondent as a “prescriber of note.”

8. Three subsequent complaints, received on June 18, 2019, July 23, 2019, and September 11, 2019, were all submitted anonymously and alleged that, among other things, the Respondent was prescribing dangerously high levels of opioids and benzodiazepines.

9. The sixth complaint, received on or about December 16, 2019, was again from OCSA and based on a recent inspection of the Respondent’s office. The inspection had found multiple dispensing violations, including but not limited to expired medications mixed with regular stock, failing to provide written prescriptions to patients, non-compliant labeling, and failing to report any dispensed controlled dangerous substances (“CDS”) to the Maryland Prescription Drug Monitoring Program (“PDMP”). The inspector also noted that she observed multiple out-of-state license plates on cars in the parking lot when she arrived at the Respondent’s office for the inspection.

III. BOARD INVESTIGATIONS

10. The Board initiated two investigations into the Respondent based on the complaints it received. The first investigation, under Case Number 2219-0156, focused on the Respondent's prescribing practices. The second investigation, under Case Number 2220-0260, focused on the Respondent's prescription medication dispensing practices.

A. Patient Records

11. As part of its investigation, the Board obtained a PDMP report listing all CDS prescriptions that the Respondent wrote from January 1, 2017 to March 13, 2019. Based on the PDMP report, the Board identified ten patients who received CDS prescriptions from the Respondent during the reviewed period ("Patients 1-10").

12. By letter dated May 20, 2019, the Board notified the Respondent of the PBM's complaint and served the Respondent with a subpoena for the medical records of Patients 1-10. On or about June 12, 2019, the Respondent provided the Board with the subpoenaed patient records and provided a treatment summary for each patient.

B. Interview of the Respondent

13. As part of its investigation, Board staff interviewed the Respondent under oath on or about October 25, 2019.

14. The Respondent said that he completed his residency in internal medicine and fellowship training in hematology/oncology. He explained that his pain management training consisted of attending "pain week" trainings once every two years, attending "pain weekend" trainings when available, and "keep[ing] up with all of the pain literature."

15. The Respondent admitted that he has prescribed medications to patients from West Virginia. He also explained his procedure that if a patient has a "dirty urine," he will

first “send them to a drug program,” and for “substance abuse counseling.” According to the Respondent, if a patient has a second inconsistent urine drug screen, he will “discharge them with a 30-day supply of medicine.”

C. Peer Review

16. As part of its investigation, the Board referred ten patient records obtained from the Respondent (Patients 1-10) and related materials to a peer review entity.

17. Two peer reviewers who are both board-certified in pain management and physical medicine/rehabilitation, separately reviewed the ten patient records and submitted their individual reports to the Board.

18. The peer reviewers concurred that the Respondent did not meet the standard of quality care for all ten patients for reasons including, but not limited to:

- a. The Respondent prescribed and maintained non-cancer patients on high doses of opioids ranging from approximately 90 to 390 MME³ per day (Patients 1-10). The Respondent prescribed all ten patients over 200 MME per day at some point over the course of their treatment;
- b. The Respondent failed to reduce or make a concerted effort to attempt to reduce opioid doses to 90 MME per day or below (Patients 1-10);
- c. The Respondent continued to prescribe and refill opioids in the presence of “inconsistent” drug screens (*e.g.*, positive for illicit substances, positive for non-prescribed narcotics, and/or negative for prescribed opioids) or other aberrant behavior (*e.g.*, self-escalation) with no documented attempts to refer patients for substance abuse treatment and counseling, taper the patients off opioids, or discharge the patients from his practice (Patients 1-10);

³ Morphine Milligram Equivalence (“MME”) is a value assigned to each opioid to represent its relative potency by using morphine as the standard comparison. The *CDC Guideline for Prescribing Opioids for Chronic Pain* (the “CDC Guideline”) uses MME to establish a recommended opioid dosing and recommends using precaution when prescribing opioid doses greater than or equal to 50 MME per day and avoiding or carefully justifying a decision to increase opioid doses greater than or equal to 90 MME per day.

- d. The Respondent increased patients' opioid doses based on subjective complaints of pain but failed to document objective findings to carefully justify increasing opioid doses significantly above the CDC Guideline (Patients 1-10);
- e. The Respondent failed to consider or refer patients for alternative treatments such as physical or chiropractic therapy, and/or interventional injection treatments (Patients 1, 4, 5, 6, 7, and 10);
- f. The Respondent failed to require that patients obtain EKG studies to assess any cardiac changes from certain opioids (Patients 5 and 8); and
- g. The Respondent prescribed benzodiazepines to patients who were also prescribed high-dose opiates without verifying anxiety diagnoses with a mental health provider, and without providing appropriate or accurate counseling on how to avoid dangerous or fatal interactions between the drugs (Patients 2, 4, 6, and 8).

D. The Respondent's Response to Peer Review Reports

19. On or about May 14, 2020, the Respondent submitted a response to the Board after being provided copies of the peer reviewers' reports. The Respondent stated that, among other things, he is "aware of the current standard of less than 90 MME/day of oral morphine," but that "the CDC also indicated that this is just a guideline and mostly applies to primary care providers." The Respondent also stated that he treats patients "holistically" and must "thread the needle" to make sure remedial actions such as discharging patients with aberrant behavior "were not taken at the wrong time during their treatment[.]"

E. The Respondent's Dispensing Practices

20. On or about December 7, 2018, OCSA inspected the Respondent's office. The inspectors noted in their inspection report that the Respondent stocked and dispensed phentermine (a Schedule IV CDS), among other weight-loss medications and antibiotics. The inspectors found multiple violations, including:

- a. Incomplete record of all stocks of CDS on hand;
- b. The Respondent did not provide written prescriptions to patients;
- c. No signs were prominently displayed advising patients that prescription drugs may be purchased if a pharmacy is not conveniently located;
- d. There were no signed forms in patient charts to confirm that a pharmacy was not conveniently located to the patient;
- e. Labeling did not include the date dispensed and provided an improper expiration date;
- f. The Respondent dispensed prescriptions in pre-filled plastic bags, not in required child-proof containers;
- g. The Respondent did not do final checks before medications were being dispensed to patients; and
- h. The Respondent did not report CDS to PDMP within three days of being dispensed to patients.

21. During the interview of the Respondent on October 25, 2019 (*see* ¶¶ 13-15, *above*), Board staff asked about the 2018 OCSA inspection. The Respondent told Board staff that he had corrected the violations that the OCSA inspectors had cited, although he admitted he had not started reporting CDS prescriptions to PDMP as required. He stated that he was “not an active pharmacy” and had not dispensed phentermine for “the last . . . six or so months.”

22. On or about December 13, 2019, OCSA again inspected the Respondent’s office. The inspector found multiple dispensing violations, including:

- a. Expired medications were mixed in with regular stock;
- b. Staff was unable to locate a record of all CDS stock on hand;
- c. The Respondent did not provide written prescriptions to patients;
- d. Labeling did not include the date dispensed, provided an improper expiration date, and did not include handling or storage instructions;
- e. Staff was unable to provide distributor information; and
- f. The Respondent did not report CDS to PDMP within three days of being dispensed to patients.

23. The inspector observed a log of prescriptions that had the Respondent had dispensed in 2018 and 2019. Included in the log were phentermine prescriptions that the Respondent had dispensed through October 24, 2019, which contradicts the Respondent's statements made under oath to Board staff the following day that he had not dispensed phentermine since approximately April 2019 (*see* ¶ 21, *above*).

24. By letter dated January 23, 2020, the Board notified the Respondent that it had opened an investigation into his dispensing practices based on the most recent OCSA complaint and requested that he provide a written response.

25. On or about February 6, 2020, the Respondent provided his written response to the OCSA complaint. The Respondent claimed that "the staff member responsible for bringing us into full compliance . . . was let go in May 2019[.]" The Respondent also noted that he has stopped dispensing all medications as of October 2019.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that: the Respondent violated Health Occ. § 14-404(a)(3)(ii) by engaging in unprofessional conduct in the practice of medicine; the Respondent violated Health Occ. § 14-404(a)(22) by failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care performed in an office or other location in this State; the Respondent violated Health Occ. § 14-404(a)(28) by failing to comply with the provisions of Health Occ. § 12-102, *to wit*: § 12-102(c)(2)(ii)(4); and the Respondent violated Health Occ. § 14-404(a)(43) by violating a rule or regulation adopted by the Board, *to wit*: COMAR 10.13.01.04 and 10.32.23.06.

ORDER

It is thus, by Disciplinary Panel A of the Board, hereby:

ORDERED that the *Order for Summary Suspension of License to Practice Medicine*, dated May 26, 2020, which summarily suspended the Respondent's Maryland medical license, is **TERMINATED**; and it is further

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent's permit to dispense prescription drugs, Permit Number 2917, is **PERMANENTLY REVOKED**. The Respondent shall surrender to the Board the dispensing permit issued by the Board; and it is further

ORDERED that the Respondent is **PERMANENTLY PROHIBITED** from prescribing and dispensing all Controlled Dangerous Substances ("CDS") in Maryland under Md. Code Ann., Crim. Law §§ 5-401 *et seq*; and it is further

ORDERED that the Respondent is **PERMANENTLY PROHIBITED** from certifying patients for the medical use of cannabis; and it is further

ORDERED that on every January 31st thereafter if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent has not prescribed or dispensed any CDS or certified patients for the medical use of cannabis in the past year; and it is further

ORDERED that if the Respondent fails to provide the required annual verification of compliance with these conditions:

- (1) There is a presumption that the Respondent has violated these permanent conditions; and
- (2) The alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing; and it is further

ORDERED that the Respondent agrees to surrender the Respondent's CDS Registration to the Office of Controlled Substances Administration; and it is further

ORDERED that the disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's CDS prescriptions. The administrative subpoenas will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that **WITHIN ONE (1) YEAR** from the effective date of this Consent Order, the Respondent shall pay a civil fine of **TWENTY THOUSAND DOLLARS (\$20,000)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, MD 21297. The Board will not renew or reinstate the Respondent's medical license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the Respondent is placed on **PROBATION** until the Respondent takes and successfully completes a Board-approved course in ethics.⁴ During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) **WITHIN SIX (6) MONTHS**, the Respondent must take and successfully complete a course in ethics. The following terms apply:
 - (a) It is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;
 - (b) The disciplinary panel will not accept a course taken over the internet;
 - (c) The Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

⁴ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

- (d) The course may not be used to fulfill the continuing medical education credits required for license renewal; and
- (e) The Respondent is responsible for the cost of the course; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation, the Respondent may submit a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order; and it is further

ORDERED that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this

Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6) (2014 & 2019 Supp.).*

10/07/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland Board of Physicians

CONSENT

I, Fidelis F. Doh, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.*

concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature on File

10/05/2020

Date

Fidelis F. Doh, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY / COUNTY OF Montgomery

I HEREBY CERTIFY that on this 5th day of October 2020, before me, a Notary Public of the foregoing State and City/County, personally appeared Fidelis F. Doh, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Kamal CD
Notary Public

My Commission expires: 04/04/2023

